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ABSTRACT

Contemporary journalism, although claiming to be politically objective and neutral, has become a powerful critic of the conduct of the government, often seeming to be a force for the reordering of national priorities along leftist lines. This "adversary journalism" of the past 15 years has strayed a long way from the neutral journalism exemplified by two major figures in the field, Walter Lippmann and James Reston. Lippmann, while an individual with strong political opinions, believed that journalists should look at the world as detached observers, presenting events as they really are. Reston saw objectivity as an obligation of an institution given unlimited freedom by the First Amendment. Yet this commitment to objectivity is beyond contemporary journalists. Instead of transcending political loyalties, they have merely exchanged one for another. The alternative to this lies in a re-examination of the attitudes of the Founding Fathers. Jefferson, Madison, and Hamilton, while taking different approaches to the press, had significant similarities. All agreed on the principles of republican government and freedom of the press. They saw that major tasks of journalism were to enlighten the public by inculcating in them the sentiments appropriate to a regime of liberty and to communicate political information so that suffrage could be used wisely. They also agreed that the press must be governed in accordance with republican principles: it must not disseminate political misinformation and heresy. Journalism should be free and objective, but friendly to the political regime that allows its existence. (LP)

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LIBERAL DEMOCRACY AND OBJECTIVE JOURNALISM: PARTNERS OR ADVERSARIES?

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This paper is based on three related propositions: 1)Contrary to conventional wisdom, the media and the government are not (and should not be) natural adversaries; 2) the government of a free society depends upon a vigilant press of sound political principles; and 3) the freedom of the press depends upon a powerful republican government. To show the truth of these propositions, I will set forth the thought of the founders of modern objective journalism, following which I will analyze the thought and review the actions of the founding fathers respecting journalism. I will conclude that so-called objective journalism is incompatible with liberal democracy, but that political, if not partisan journalism, is an indispensable institution in a liberal democracy.

Contemporary journalism, although professing to be objective and neutral in politics, has pretty clearly become a powerful (and often shrill) critic of the conduct of the government. From the national television news organizations which night after night report unfavorable news and give hostile commentary about their political enemies; to the national news magazines, which have long since blurred the distinction between news reporting and advocacy; to the wire services, which regularly characterize political speeches rather than report them; to the nationally syndicated columnists who aspire to Olympian detachment but almost invariably are grinding partisan axes; journalism is anything but the institution mythologized in journalism textbooks or in the literature of good government groups. It is a feisty, argumentative and tenacious force for the reordering of the nation's priorities along the lines advocated by the political and academic left. Causes such as income redistribution, affirmative action, sexual liberation, environmentalism, sympathy for leftist rebels and regimes around the world, opposition to defense spending and so on are implicitly and often explicitly the basis for much of what

is today called news reporting and commentary. To a lesser extent, advocacy of right wing causes goes forward in a few scattered places. In short, the Zeitgeist has captured American journalism.

The name or description given about 15 years ago to what has become the dominant force in American journalism, viz., adversary journalism, could not have been more appropriate. Journalism had indeed become the unrelenting critic of, first, the foreign policy of the Johnson Administration, and then the Nixon-Ford Presidency, and even the Carter Administration. Presently, of course, it rails against the Reagan Administration. When this trend became apparent, many of the stalwarts of the venerable objective press deplored it and called for a return to non-partisanship in news reporting and an end to political advocacy, open or covert. But while the established journalists of the late 1960s meant well, they were ineffectual. They did not prevent the politicization of the press because they have not learned an important truth: "You cannot beat a dogma with a stigma."* Mere pointing with alarm at the trend or exhorting young reporters to objectivity failed utterly to turn the tide. The most important reason for this is that the so-called objectivity in which they believed was both illusory and contradictory. It was illusory because objectivity is not so easily attained and it is contradictory because it conflicts with the manifestly political character of journalism. Objectivity, or the perspective which sees things as they actually are, ultimately requires the intellectual powers and courage of a philosopher. One cannot routinely "set aside" one's prejudices and "be objective"; one must question one's opinions and free oneself from adherence to them. And one does not commit oneself to the demanding tasks of journalism, to the regular dissemination of information and opinion to the public, while remaining essentially indifferent to the fate of the society one serves.

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* I am indebted for this insight to Prof. Harry Jaffa, Claremont McKenna College.

The whole point of journalism, after all, is to assist the people in making intelligent and sound choices about how to govern themselves.

To support these admittedly argumentative and provocative assertions, I wish to examine the thought of two major figures in 20th century journalism who taught and exemplified the neutral journalism which now seems to be passing from the scene: Walter Lippman and James Reston.

Lippmann, the author of a famous nationally syndicated column (Today and Tomorrow) for nearly 40 years, was called "the dean of journalism" by the profession. He was the author of numerous books on political subjects, two of which are relevant here: Liberty and the News and Public Opinion. In these two works, both of which were written shortly after World War I, Lippmann laid down the basis for neutral, objective journalism and the "science" of public opinion. The first work was intended to persuade journalists to abandon any commitment to partisan politics; the second sought to persuade political scientists to understand public opinions as manipulable "fictions" rather than as sacred truths. Both journalists and political scientists were to model themselves after "the patient and fearless men of science who labor to see the world as it really is." They were admonished to take to heart the alleged historical insight of 19th century German philosophy that all human thought was the product of the age in which it is expressed. The intent and effect of this teaching was much more than to undermine the public's reliance upon Republican newspapers for news about the Democrats and vice versa; it was to strike at the claim, central to the American Revolution, that human beings could truly know, on the basis of reason, what are their natural rights and political obligations. Both major political parties (then and now) took it for granted that the American republic was the home of liberty and equality, of justice for all, if not always in practice, then certainly in principle. But Lippmann insisted that this perspective, the perspective of the citizen and statesman, must be replaced by that of the neutral,

detached observer, preferably of the scientifically trained expert.

Lippmann maintained that it was "not the reporter's duty to care whose ox is gored." He must simply "tell the truth and shame the devil." But the truth to be told was no longer the self evident truth of the Declaration of Independence, viz., that equal men possess natural rights or that legitimate government rests upon the consent of the governed; rather the truths to be sought were the "neutral facts" to which we must turn "for unity and refreshment of spirit." The mistake of previous journalists was attempting to make the facts responsible to their opinions when they should be making their opinions responsible to the facts. Not deductions from first principles but inductions from the data become the basis for political thought.

But it is a fact that in spite of his reputation for detachment and objectivity, Lippmann took a passionate interest in politics--and sometimes an advisory role to Presidents--and prescribed solutions to a multitude of political problems. One is particularly reminded of his bitter attacks on Presidents Truman and Johnson for the wars they fought in Asia. Lippmann's politics were liberal, and therefore so was his journalism. But it was a liberalism severed from any connection with the liberalism of the American Revolution. Instead, on the basis of historical relativism, it sought to restrain all regimes, liberal or non-liberal, democratic or non-democratic, from being carried to their logical extremes. Therein lay the whole motive for his commitment to objectivity. Politics was decent and moderate, he thought, to the extent--and only to the extent-- that it did not take its own principles too seriously.*

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* Lippmann's position was echoed in the contemporary opinions of the United States Supreme Court. Led by Associate Justice Oliver Wendell Holmes, the Court set forth a rule of prudence in freedom of speech cases--the clear and present danger doctrine--which was extended to permit the utterance of any political principles whatever so long as they did not pose a direct threat to the public peace and safety. The basis for freedom of speech and press was asserted to be the marketplace of ideas, rather than the self evident truths known to men through reason. Holmes described the American regime as an experiment, not in the sense that popular government gives the people

A commitment to objectivity, to an indifference to political doctrines, was (and is) beyond the ken of journalists. Instead of transcending their political loyalties, they simply exchanged one political loyalty for another. No longer the tools of reactionaries and robber barons, journalists were captivated, first, by Roosevelt's New Deal and, later, by the whole liberal agenda. But the process has continued to the point where journalists no longer feel obligated to their own country and are inclined to see virtues in our enemies. Lippman's own career is a testament to the truth of this observation. The current practice of reporting the latest "news" from TASS or Radio Moscow is another.

The career of James Reston spans this development. In a seminal speech he gave at the close of the Second World War, Reston made it clear that he rejected pure objectivity because he thought it engendered cynicism and indifference in reporters. He preferred men who were "a little bit crazy about serving the people" by reporting the news over those dedicated to no cause at all. For Reston, the reporter should not seek objectivity as an end in itself but as a means to safeguard the public's right to know. But whereas Lippmann advocated objectivity as

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credit for judgment that historical experience seems to deny but that the very principles of that regime are themselves open to question. This had the effect of undermining the claim of the people to rule themselves, especially if and when a demagogue or worse can convince them their goals can be better achieved in a despotism than in a republic.

Thirty years later, in 1950, in a case seemingly as far removed from the "liberalizing" effects of the clear and present danger test, the Court in Dennis v. United States upheld the conviction of leading Communist Party members under the Smith Act in remarkable--if not paradoxical--language for conservative Chief Justice Vinson:

> Speech is not an absolute, above and beyond control by the legislature when its judgment...is that certain kinds of speech are so undesirable as to warrant criminal sanctions. Nothing is more certain in modern society than the principle that there are no absolutes...To those who would paralyze our government in the face of impending threat by encasing it in a semantic straight jacket we must reply that all concepts are relative.

The regime cannot evaluate the content or substance of political doctrines, for none are simply true (or false). Rather, the regime has the power to defend itself on the basis of no principle except self preservation.

an end for an "unregulated private enterprize," Reston saw objectivity as the obligation of an institution given virtually unlimited freedom by the First Amendment to report "all sides to all questions." In effect, the public's right to know depends upon the power of an unregulated private enterprise to report the news. Lippmann suggested that statesmen could not implement wise policies because certain powerful newspaper publishers had drugged the public; Reston insisted that the press's duty to the public necessarily implied that it would often be on a collision course with the government. While the press lives by disclosures, the government customarily releases information for the public's, or more often, for its own advantage. Lippmann's intention in teaching neutrality in news reporting was, among other things, to restrain the self-rightousness of journalists. But by Reston's time, the journalists' claim of objectivity had become a weapon by which to intimidate, or at least, doubt the spokesmen for political authority. Regarding the journalists' and politicians' interests as inherently in conflict, the post-Lippmann form of journalistic objectivity became a full-fledged adversary of government.

Meanwhile, as a consequence of the new journalism (and new jurisprudence--see above note, pp. 4-5) journalists were cut off from the natural rights doctrine proclaimed in the 18th century, a doctrine which had made a free government and a free press possible. A journalism without consciously articulated political principles became subject to the vagaries of chance. Into this void has stepped the academic and political left which shares with objective journalism a point of view divorced from the American regime. Modern journalism has been "carried on the winds of doctrine." With no argument against it, journalists have fallen under the sway of ideology. For similar reasons, journalism has lost the ability to explain what is happening in the world. It has deprived the political actors of any principled motivation for their thought or action. All are narrow partisans of their own interests or ambitions. If they disagree with journalists, politicians are

ideologues. The United States, from this point of view, cannot legitimately use force on behalf of its principles anywhere in the world, including within its own borders, for its principles are intrinsically no better than any other nation's, if they are not worse. To give the benefit of the doubt to the regime that secures your freedom would be to show an undue partiality that compromises the integrity of the true journalist. The ultimate result of all this is predictable: journalists will put an end to republican government in the name of allegedly high ideals which will ultimately be imposed by a regime which will put an end to freedom of the press. Is there no alternative to this situation?

I believe there is. By re-examining the words and deeds of the founders of the American regime, we can recapture a journalism that was both free and objective yet friendly to the regime which makes it possible. We may start with the Declaration of Independence. Although it is a classic example of political rhetoric, it is nonetheless the model for journalism. The author of the Declaration, Thomas Jefferson, wrote years later to a friend that a good newspaper should consist of "true facts and sound principles only." That dual identity characterizes the Declaration. It proclaims the "sound principles" of republican government and submits true "facts... to a candid world" to prove that the British monarchy had become a tyranny. The principles of equality and liberty, and government by consent of the governed are self-evident truths, arising from the "laws of nature and of nature's God." They provide the basis for evaluating all existing regimes. If the regime does not measure up, the people have the right to overthrow it and "to provide new guards for their future security."

Originally, the function of the American press was at one with political obligation: to proclaim and enforce, as well as to exercise, the natural rights of all men. During the Revolution, those newspapers which championed the patriot cause, the side which sought to extablish a free republican regime, won the gratitude and loyalty of the American people. The press that stood for the Revolution was also

the press that was relied on most for its reporting of particular facts. According to Arthur Schlesinger, Sr., in his work, recently reprinted, Prelude to Independence: The Newspaper War on Great Britain, 1764-1776, the American habit of turning to the newspaper for information about public affairs was most firmly fixed in this period. The papers that were committed, at first, to the Tory side or later to publishing for both sides, ran afoul of the revolutionary sentiment for republican government. Where the security of freedom is at stake, there can be no toleration, no freedom of the press, for the advocates of despotism. Only a people that has become indifferent to its own freedom can indulge its enemies.

According to Jefferson, the press is obliged to uphold the standard of good government and to call bad governments to account for their abuses and usurpations. This did not rule out, but rather required, intelligent thought and prudent action. Otherwise, one could not succeedin the establishment of a just regime or be correct in the judgments made about existing regimes.

> Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.

The great object was to do the most good in the circumstances for equality and liberty. Some abuse of the freedom the the press is inseparable from the exercise of it. But if the press is to secure its own freedom, it must at least support the regime which alone can guarantee it.

In the 1780s, when the stability of the American republics was shaken by events such as Shays' Rebellion in Massachusetts, Jefferson observed that since the security of free government rested on opinion, "the very first object should be to keep that (opinion) right." His confidence in the newspapers was based on their staunch adherence to the principles of the Revolution. "The way to prevent these irregular interpositions of the people is to give them full information of their affairs thro(sic) the channel of the public papers, and to contrive that

those papers should penetrate the whole mass of the people." He added: "Do not be too severe upon their errors, but reclaim them by enlightening them."

Jefferson was never an advocate of the doctrine that all points of view had a right to be heard or expressed, simply because he regarded republican government as the only legitimate form of government and its enemies as political heretics. When he came to believe that such high Federalists as Alexander Hamilton intended to pervert the Constitution into an oligarchy or a monarchy, he summoned up all resources, including those of his friends in the press, to combat this evil. His worst fears were confirmed in 1798 when the Federalist-dominated Congress passed and a Federalist President signed into a law a bill to punish sedition in speech and writing. While ostensibly indended to prevent critics of the government from rendering it contemptible and thus powerless during an undeclared war with France, the actual effects seemed to Jefferson to be considerably more. Remarkably, only Republicans were prosecuted in the federal courts for violation of the act. If the Federalists believed that they could persecute their opponents out of existence, the strategy backfired. The opposition to the restrictive legislation was so widespread and intense that it enabled tne Democratic-Republicans to sweep to victory in the elections of 1800. Then, as far as the press was concerned, the tables were turned. Now the ruling Republicans had to contend with a Federalist press that did all in its power to discredit Jefferson and his party. In his First Inaugural Address, the President acknowledged that the "contest of opinion" prior to his taking office was decidedly animated, but he anticipated that the majority would prevail. ("We are all Federalists, we are all Republicans.") But after his first administration had passed into history, he was less sanguine (but still hopeful).

> During the course of administration, and in order to disturb it, the artillery of the press has been levelled against us, charged with whatsoever its licentiousness could devise or dare. These abuses of an institution so important to freedom and science, are deeply to be regretted, inasmuch as they tend to lessen its usefulness, and to sap its safety.

But Jefferson contended that the results of the election of 1804 had shown that the citizens were able to make an intelligent choice despite the press. "(S)ince truth and reason have maintained their ground against false opinion in league with false facts, the press, confined to truth, needs no other legal restraint." Still, Jefferson was not opposed in principle to legal restraints.

> No inference is here intended, that the laws, provided by the State against false and defamatory publications, should not be enforced; he who has time, renders a service to public morals and public tranquility in reforming these abuses by the salutory coercions of the law.

It is true that Jefferson vehemently opposed the federal sedition act but on the grounds that no such power had been delegated by the U.S. Constitution. But he believed that such authority had been left with the states.

Curiously, although characteristically, Jefferson never actually wrote for the press. His lifelong friend, James Madison, and his adversary, Alexander Hamilton, however, wrote many articles for the press. Their most famous contribution, ironically, consisted of 85 essays in a collaborative venture, The Federalist, written in 1787 to persuade the delegates to the New York and Virginia ratifying conventions to approve the Constitution. When the famous division in the ranks of the founders occurred, political journalism reflected it. Hamiltion encouraged the founding of a Federalist newspaper called the Gazette of the United States in 1790 and Jefferson and Madison responded the next year with the National Gazette. Hamilton and Madison wrote numerous essays under various pseudonyms for these and other papers during the 1790s on domestic and foreign issues and the character and requirements of the Constitution. In this party struggle, including the debate over the role of the press and the extent of its freedom, each side helped to shape the character of American journalism.

Both Hamilton and Madison had been opposed to a Bill of Rights, including any guarantee of freedom of the press, on the grounds that the Constitution gave the federal government no power over the press. As the most famous advocate of

the large republic argument, Madison believed that a bill of rights would be unnecessary and superfluous. A large republic engenders such a multiplicity of economic interests and religious sects that the chances are slight indeed that a faction representing one narrow economic or theological interest would dominate the federal government. In addition, the separation of governmental powers into three departments tends to make it difficult for such a cohesive group, if it became a majority, to utilize the government for its own selfish ends. Madison thought very little of "paper provisions" in state constitutions that admonished governments not to abuse their powers but were more honored in the breach than in the observance. Similarly, Hamilton wrote in The Federalist No. 84 that demands for a bill of rights are not only useless but dangerous, for they imply that the government has the power to do something, e.g., regulate the press without abridging its freedom, which is not among its enumerated powers, express or implied. He denied, moreover, that a definition of the liberty of the press was practicable, given the numerous possibilities for evasion.

Both men were unwitting prophets in that the Bill of Rights (added to the Constitution two years after its adoption) did not prevent the Federalists from passing the Alien and Sedition laws. The latter made illegal any false, scandalous or malicious writing against the federal government with intent to discredit, debilitate or destroy it. Hamilton was not among the originators or strong supporters of the act, but he did believe that the section of the act which permitted truth as a defense against a charge of libel rendered the act less obnoxious than it appeared. Madison, meanwhile, joined Jefferson in full-scale opposition. Yet Madison's objections were in some important ways different from Jefferson's. Each was the author of a famous resolution against the alien and sedition acts, Madison in Virginia, Jefferson in Kentucky, which denounced them as unconstitutional because they violated the First and Tenth Amendments to the Constitution. But Madison went further than Jefferson in maintaining that the acts violated natural

rights which can no more rightfully be violated by the state governments than by the federal government. He concludes the Virginia Resolution with the remark that the Sedition Act ought to produce universal alarm

> because it is leveled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

In his 1799 report on the Virginia Resolution, Madison maintained that extensive freedom was permitted in practice by the states to the press, including the Federalist Party organs, certainly more than allowed to the Republican papers by the federal government under the Sedition Act.

> Some degree of abuse is inseparable from the proper use of everything; and in no instance is this more true, than in that of the press. It has accordingly been decided by the practice of the states, that it is is better to leave a few of its noxious branches to their luxuriant growth than by pruning them away, to injure the vigour of those yielding the proper fruits. And can the wisdom of this policy be doubted by any who reflect, that to the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity, over error and oppression...(?)

Madison did not believe that the Sedition Act could be saved by its provision that truth was a defense against a charge of libel. In the first place, facts are difficult and troublesome to prove, and opinions are so inseparably linked with facts that a judge's animus against the opinions expressed will undermine a fair consideration of the facts reported.

But even though Madison believed that prosecution of a libel would be unfair and impractical, he did not share the premise of modern libertarians that the content of political opinions does not matter. There <u>are</u> political truths and heresies. Instead, like Jefferson, he preferred for the matter to be settled by a public opinion which judges the conduct of the press no less than the government.

The final chapter in this affair was written by Hamilton. In <u>People v Croswell</u>, a New York libel case in 1804, Hamilton argued on behalf of a client accused of libeling President Jefferson. What is remarkable about the case is that it estab-

lished as a legal principle, first in New York then in other free states, that truth could indeed be a defense, provided it is told from good motives and for justifiable ends. Although he had expressed doubts earlier, Hamilton was now convinced, perhaps by the events of the intervening years, that a definition of the liberty of the press was essential. He had always maintained that public opinion would determine the extent of freedom of the press. What he did in Croswell was to apply the same standard to the press that had already been applied to the government; all men and measures are subject to popular judgment on the basis of republican principles. This means that the public has the right to be governed by persons of the highest character, dedicated to the security of natural rights; and to insist upon measures which work to accomplish objectives consistent with them.

Hamilton was obliged to argue this position--and to lose his case--because the law of New York and other states did not permit truth to be introduced in evidence in a libel case. (The law was changed very soon thereafter by the state legislature.) Following the old English common law, which held that the greater the truth, the greater the libel, the states were in effect, upholding the inviolable sacredness of government--a doctrine more compatible with the divine right of kings than with republican government. Freedom of the press, then, existed by permission and not by right. More precisely, freedom of the press was not yet legally tied to any clear principle or purpose. What Hamilton suceeded in doing was to lay the foundations for American libel law in the states, the federal government having been barred from it, if not by the Bill of Rights, then certainly by the results of the elections of 1800.

While the differing approaches of Jefferson, Madison and Hamilton to the issues of the press are not unimportant, it is instructive to note the numerous similarities. Allwere agreed on the truth of the principles of the American Revolution, which provided the ground and supplied the principles for republican government and the freedom of the press. All were agreed that in the republic

established by the Revolution and the Constitution, that public opinion was sovereign. They all saw that a major task of journalism, no less than of statesmanship, was to enlighten the public by inculcating in them the sentiments appropriate to a regime of liberty. And all recognized the necessity for employing the press to communicate political information to the people so that the suffrage may be used wisely. While they disagreed about whether the federal government and/or state governments should regulate the press, and to what extent or by what means it should be regulated, they agreed that the press must be governed in accordance with republican principles. That is,the press must not disseminate misinformation and political heresy, for the continued existence and future prosperity of republican government depends upon truth in fact and soundness in principles. Journalism in a free society, while certainly capable of clashing with political authority, including both the ruling party and the opposition, need not be the "natural adversary" of government. It is a partner in the noble task of governing a people which recognizes and secures its natural rights to equality, liberty and government by consent of the governed.